

AMENDMENTS TO THE DRAWINGS

A replacement sheet of drawings containing FIGURE 1 is attached hereto.

REMARKS

Applicant respectfully requests that the above-identified application be reexamined.

Initially, applicant notes that an Office Action Summary, specifically item 12, indicated that some of the certified copies of the priority documents have been received, noting that the detailed Office Action should be seen for a list of the certified copies not received. Applicant has been unable to locate any portion of the detailed Office Action that identifies certified copies not received. Contrariwise, applicant believes that all certified copies have been submitted and, as a result, requests clarification.

The Office Action mailed February 20, 2008, objected to the drawings because the rectangular boxes shown in FIGURE 1 do not contain descriptive text labels. In this regard, a replacement drawing sheet containing FIGURE 1 is attached. The replacement drawing sheet has been amended so that descriptive text labels are shown in the rectangular boxes. Applicant respectfully requests that the drawing sheet be substituted for the current drawing sheet containing FIGURE 1. Applicant further submits that this substitution renders the drawing objection moot.

The Office Action also objected to the abstract. In this regard, the abstract has been amended to remove the objected-to language. As a result, applicant respectfully submits that this objection has also been rendered moot.

The Office Action also rejected Claims 1, 2, 4, 7, 8, 9, 12, 13, and 18 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. In this regard, all of these claims have been amended in a manner that applicant submits obviates this ground of rejection. More specifically, with regard to the "full" batches objection to Claims 1, 2, 4, 12, and 13, the independent ones of these claims, namely, Claims 1 and 12, have been amended to recite that full batches are based on the consumption of whole bags of flour. Regarding the objection to Claim 7, this claim has been amended in a manner that obviates the objection. Since Claim 8 has

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been canceled, it will not be discussed. Claim 9 has been amended such that an antecedent basis exists for the limitation of this claim in Claim 1, the claim from which Claim 9 now depends. Claim 18 has been amended so as to recite a computer program according to Claim 12, as suggested in the Office Action. In summary, in view of the foregoing amendments, applicant respectfully submits that the 35 U.S.C. § 112 rejections have been obviated and, thus, requests that they be withdrawn.

The Office Action also rejected Claims 1-11, 12-17, and 21-26 under 35 U.S.C. § 101 because the claimed invention was allegedly directed to nonstatutory subject matter. Claim 1 was objected to as reciting a method and thus directed to an allegedly abstract idea. In this regard, Claim 1 and the objected-to claims dependent therefrom (Claims 2-11) have all been amended to recite a computer-implemented method. Applicant submits that a computer-implemented method is not an abstract idea and, thus, that the rejection of Claims 1-11 under 35 U.S.C. § 101 has been obviated by this amendment. Claims 12-17 and 21-26 were objected to because Claims 12 and 21 were allegedly not directed to a process, machine, manufacture, composition, manner, or any improvement thereof. In this regard, Claims 12 and 21 and all of the claims dependent therefrom (Claims 13-17 and 22-26, respectively) have been amended to recite that the claims cover a computer-readable storage medium. Applicant submits that these amendments obviate this grounds of rejection.

The Office Action also rejected Claims 1-4, 7, 12, 13, 21, and 22 under 35 U.S.C. § 103(a) as being unpatentable in view of applicant's own admissions found in the specification (hereinafter "AOA") in view of an article by T.S. Rundus and E.B. Barrett titled "Steps to Easier Quantity Food Production" (hereinafter "Rundus"). Claims 5-6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over AOA in view of Rundus taken further in view of the teachings of U.S. Patent No. 5,212,791 (hereinafter "Damian"). Claims 8-10, 14-16, and 23-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over AOA in view of Rundus, taken further in view of the teachings of U.S. Patent No. 6,941,514 (hereinafter "Bradford").

Claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over AOA in view of Rundus, taken further in view of U.S. Patent No. 7,168,525 (hereinafter "Jacobs"). Claims 17 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over AOA in view of Rundus, taken further in view of Bradford and Jacobs. Claims 18-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,472,273 (hereinafter "Fowler et al.") in view of AOA and Rundus. While applicant respectfully disagrees with the foregoing grounds of rejection, various clarifying amendments have been made to the claims.

The Rundus Reference

Rundus relates to menu scaling and discusses the practicalities of increasing the volume of a "home" recipe (say, four to six servings) to a large commercial scale (say, 100 servings). There is no discussion of batch production of multiple products that optimizes the use of equipment in order to minimize wastage of a precooked product, such as dough. Rundus therefore is of no relevance to the claimed invention, which is concerned with optimizing the batching of bakery products.

The only portion of Rundus concerned with optimizing the allocation of equipment and ingredients is "step 1 - the first step is to develop a menu" on the first page. There is no discussion of batching, let alone the combining of "respective weights of dough for bakery products of the same dough type that cannot be produced in a batch comprising a whole number of bags of flour into such a batch" as is clearly recited in the amended claims.

Rundus in fact teaches away from the claimed invention. The only teachings in regard to optimizing the usage of equipment and the allocation of ingredients is that the menu should be planned so that different pieces of equipment are used (see particularly paragraph 2 of step 1), whereas the present invention is concerned with optimizing the use of a single piece of equipment (such as a baking oven).

There is nothing in Rundus to render the claimed invention obvious.

The Other Citations

The relevance of the other citations (in respect of dependent claims) is tangential at best. The citations clearly do not lead to the claimed invention, particularly when viewed in light of the contrary teachings of Rundus.

Specific Comments

Item 22 of the Office Action states that certain recitations of Claims 1 and 12 cover allegedly admitted prior art (AOA). Applicant disagrees.

Specifically, page 1, line 23, states that "it requires great skill and expertise to schedule a production run" In this context of the bakery industry, "skill and expertise" equates to experience, judgment, and guesswork. Nothing in the specification or this statement suggests that there is any known systematic way to schedule a production run. Applicant specifically disputes the Office Action's conclusion that "a method of producing a production run **schedule . . .**" is admitted prior art.

There is no suggestion in the specification that a computer program for scheduling a production run is known. Applicant specifically disputes the Office Action's conclusion that a computer program for scheduling a production run is known.

The Office Action concludes that the step of "determining bakery products to be produced including [certain characteristics]" and "organising each bakery product into a group according to the dough type" are admitted. Nothing in the specification suggests that this is previously known. Specifically, the portion of the text mentioned in the Office Action (page 1, lines 9-14) merely states that there are bakery products having *certain characteristics*. If anything in this regard is to be gleaned as being admitted from the back ground discussion, it is that the current approach is not systematic, i.e., there is nothing like the claimed method, and that the steps set out in the Office Action are not followed by the prior art. This is part of the problem that leads to the substantial wastage set out at page 1, line 24, to page 2, line 1.

The Office Action goes on to allege that the claimed arithmetic operations are disclosed in Rundus. Applicant disagrees. Rundus does not disclose the claimed arithmetic operations or the claimed sequence of operations. Specifically, Rundus does not disclose, teach, or suggest:

- aggregating a total weight of an ingredient (i.e., calculating a total weight of dough);
- calculating a number of full batches that can be produced of each bakery product (in fact, Rundus includes no discussion of batch production at all);
- calculating a weight of dough for each bakery product that cannot be produced in a batch comprising a whole number of bags of flour--again, Rundus includes no discussion of batch production, let alone the claimed calculation of the leftover portions or "combining the respective weight of dough for each bakery product of the same dough type that cannot be produced in a batch comprising a whole number of bags of flour into such a batch."

Rundus fails to disclose batches calculating the leftover portion and fails to disclose combining of the leftover portions as claimed.

Further, the Office Action's unsupported assertion that "it is well known in the culinary art that recipes can be adjusted to meet either ingredient or yield parameters" does not render the claimed invention obvious, even in view of Rundus. The Office Action alleges that "the combined batches are full batches," as recited in Claim 22, would have been obvious in light of Rundus. Since Rundus fails to mention batches, full batches, or combined batches, applicant disputes this allegation.

In summary, with respect to the dependent claims mentioned under item 22, applicant disputes the allegations made. Without going into any further detail, the independent claims are clearly patentable for the reasons discussed above.

While applicant submits that the dependent claims are all allowable because the independent claims are allowable, applicant has the following brief comments regarding the remaining dependent claim rejections.

In item 23, Claims 5-6 are rejected over AOA in view of Rundus and further in view of Damian. Damian relates to a production scheduling system for dynamically scheduling the production of parts on a plurality of manufacturing machines. The relevance of this document, if any, to the claimed invention, which relates to bakery products, only becomes apparent with the benefit of hindsight. That is, a person skilled in the art of bakery products would not look to the Damian reference for guidance to solve their problem, nor is there anything in the citation that would lead a person skilled in the art of producing bakery products to the claimed invention.

In item 24, Bradford is cited as relevant to Claims 15 and 24. As discussed above, applicant disputes the relevance of AOA and Rundus. The Bradford reference relates to a priority based work order scheduling system for utility companies. This reference is not relevant to the present invention, which relates to bakery products. Claims 15 and 24 relate to displaying the batch information graphically. Bradford mentions having a graphical user display, but there is no suggestion that such a display might be useful for scheduling the production of bakery products. Applicant submits that it would not have been obvious to use the graphical display of Bradford for scheduling bakery products at the time the claimed invention was made.

In item 25, Claim 11 is rejected over AOA in view of Rundus and further in view of Jacobs. Applicant disputes the relevance of the AOA and Rundus as discussed above. Jacobs relates to a self-checkout method and apparatus including a graphical interface for non-bar-coded items and as such is directed to a different, unrelated art. The portions mentioned in the Office Action indicate that the layout of the graphical user interface can be changed. This merely indicates that the display of the self-checkout can be varied. There is no suggestion that the display could be indicative of the physical layout of certain products. Claim 11 clearly recites "a schematic layout of dough pieces on baking trays," i.e., the claim relates to providing a user with

the instructions on how to place the dough on the baking tray. Clearly, Jacobs fails to disclose this feature. Again, there is nothing in Jacobs that renders the claimed invention obvious. Regardless, the combination of Jacobs and Rundus would not disclose all of the features of the invention of Claim 11.

In item 26, the Office Action rejects Claims 17 and 26 based on the combination of AOA, Rundus, Bradford, and Jacobs. As above, applicant disputes the contents of the AOA and the relevance of the mentioned references. Further, there is no reason why it would have been obvious to combine these disparate documents when this invention was made. The random selection of the features from each document only becomes apparent using hindsight based on the claimed invention, which is, of course, impermissible.

Again, the Office Action alleges that Jacobs shows something analogous to the schematic layout mentioned in Claims 11, 17, and 26. As above, the claimed schematic layout is an indication of how the dough pieces should be laid out on the baking trays, whereas the layout mentioned in Jacobs is merely how a graphical display might be arranged (so that a user at a self-checkout can more easily locate items on the display).

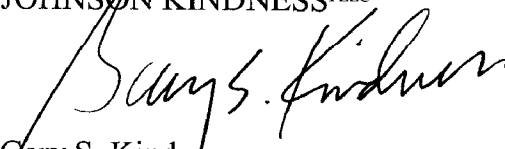
In item 27, the Office Action states that Claims 18-20 are unpatentable in light of Fowler, AOA, and Rundus. Applicant disagrees. Fowler relates to a bread dough powered mixer wherein the instantaneous power flow to the mixer is used to provide an indication of the status of the bread dough. The alleged relevance of Fowler seems to be the use of a computer in relation to baking machinery. There is no suggestion in Fowler of the use of a production scheduling method or a computer in relation thereto. Even if a person skilled in the art were to use the computer of Fowler to automate the method of Rundus, the computer would only be instructive in operating the bread dough powered mixer and not a computer for a bakery system that involves scheduling a production run, as required by Claims 18 to 20.

CONCLUSION

In view of the foregoing amendments and remarks, applicant respectfully submits that all of the claims in this application are allowable. Consequently, early and favorable action allowing all of the claims as amended and passing this application to issue are respectfully solicited. If the Examiner has any further questions, he is invited to contact applicant's attorney at the number set forth below.

Respectfully submitted,

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